

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
OXFORD DIVISION**

**UNITED STATES OF AMERICA
ex rel. KEVIN GRAY**

PLAINTIFF

v.

NO.: 3:15-CV-127-MPM-JMV

**MITIAS ORTHOPAEDICS, PLLC,
AND HANNA M. MITIAS, M.D.**

DEFENDANTS

ORDER

This matter is before the Court on the Defendants' Motion to Compel a 30(b)(6) Deposition of the CMS Topics. [150]. For the reasons discussed below, at the hearing on August 19, 2021,¹ and as noted in the opposition briefing by the Government, the court finds that the motion is without merit and is therefore denied.

The CMS has heretofore given a 4-5 hours 30(b)(6) deposition and there has been no demonstration of a persuasive need to compel a further deposition on the very same topics. This is particularly so where, as here, the topics concern, at least in part, the classification of the compounded hyaluronic acid at issue as a device rather than a drug – a claim the Government has now made explicitly clear it has abandoned. Further, the Defendants have not demonstrated that the device/drug distinction is relevant to whether they would be entitled to reimbursement had they billed the government for the subject compounded hyaluronic acid under the miscellaneous J code. Finally, as to topic number 10, the Government represented at the hearing on this matter that it has heretofore undertaken to determine if it has any information responsive to topic number 10 and

¹ The court further incorporates herein by reference its discussion of the relevant matters at issue in this case as outlined in its memorandum opinion on Defendants' Motion to Compel a 30(b)(6) Deposition of the FDA dated August 26, 2021.

will confirm, in verified response to an interrogatory propounded to it by defendant on the subject, that it has no such further information to supply by the 30(b)(6) deponent or otherwise.

SO ORDERED, this, the 26th day of August, 2021.

/s/ Jane M. Virden
UNITED STATES MAGISTRATE JUDGE